

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.111

Serial Number: 10/707,619

Filing Date: December 24, 2003

Title: SNOW REMOVAL VEHICLES WITH COLORED EL LIGHTING

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REMARKS

This responds to the Office Action mailed on September 21, 2005.

Claims 1, 12-26 are amended, and claims 27-34 are added; as a result, claims 1-34 are now pending in this application.

Priority Claim

The Office Action objected to Applicants' priority claim as listed on the Declaration that was filed together with the application. Applicant has amended the specification herein to include the claim of priority to U.S. Serial No. 10/645,873. Applicants' priority claim was recognized by the Office as shown by its inclusion on the first filing receipt, and as such Applicants believe that the amendment to the specification is sufficient, and that no further action is required.

Declaration and Power of Attorney

A new oath or declaration was required in compliance with 37 C.F.R. 1.67(a). A newly executed Declaration (and Power of Attorney) identifying this application by application number and filing date was filed on December 9, 2005, a copy of which accompanies this response.

Objection to the Drawings

The drawings were objected to as containing duplicates of Figures 12 and 13, and having incomplete reference numbers in Figure 15. Applicant believes that the duplication of Figures 12 and 13 likely occurred due to a glitch in the electronic application filing process, and submits that this duplication was not intentional. The replacement drawing sheets enclosed herewith contain only a single instance of Figures 12 and 13, and the reference numerals in Figure 15 have also been corrected. Applicant believes that this submission overcomes the objections to the drawings.

Objections to the Specification

The specification was objected to due to typographical and grammatical errors. The specification is amended herein as requested by the Examiner.

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Objections to the Claims

Claims 13-21 and 23-26 were objected to due to informalities. Claims 13-21 and 23-26 have been amended to correct a typographical error in their dependencies. Claims 13-18 and 20 have been amended to depend from claim 12; claims 19 and 21 have been amended to depend from claim 18; and claims 23-26 have been amended to depend from claim 22.

Claims 13-18 were objected to due to informalities. Claims 13-18 have been amended to correct a typographical error in the dependency; each of these claims now depends from claim 12. Thus the term "safety indicia" has antecedent basis in claim 12.

Claim 16 was objected to due to informalities. Applicant submits that the terms "rear view mirror", "rear-view mirror" and "rearview mirror" are all acceptable variations having the same meaning, and that no correction is necessary.

Claim 23 was objected to due to informalities. Claims 23-36 have been amended to correct a typographical error in the dependency; each of these claims now depends from claim 22. Thus the term "safety signal" has antecedent basis in claim 22.

The above amendments are believed to overcome the objections to the claims.

Information Disclosure Statement

Applicant submitted an Information Disclosure Statement and a 1449 Form on July 15, 2005. Applicant respectfully requests that initialed copies of the 1449 Forms be returned to Applicant's Representatives to indicate that the cited references have been considered by the Examiner.

Citation of References on PTO 892 Form

Applicant notes that the Examiner has relied upon US Patent 5,339,550 for the rejections in this Office Action. However, the patent to Hoffman was not listed on the Examiner's 892 Form. Applicant respectfully requests that this reference be listed on an 892 Form with the next Office Action, so that the reference is officially made of record.

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Dkt: 1748.006US1§101 Rejection of the Claims

Claims 18-19 were rejected under 35 U.S.C. § 101 as being unsupported by either a specific or substantial asserted utility or a well established utility. Claims 18 and 19 are as follows:

18. (Currently Amended) The method of claim ~~[[1]]~~ 12 wherein the snowplow is driven adjacent to another snowplow that also includes the safety indicia illuminated by one or more EL lighting surfaces.

19. (Currently Amended) The method of claim ~~[[7]]~~ 18 wherein the snowplows are driven in a snowstorm.

Both of these claims refer to method embodiments wherein snowplows having EL lighting are driven under definable conditions of a snowstorm in one instance and in formation in the other instance. In the *In re Lundgren* case, the CAFC held that subject matter is patentable if it performs transformation of some physical subject matter into a different state or thing. In the present case, claims 18 and 19 claim a method that transforms a formation of snowplows that is difficult to see and prone to producing accidents to a formation that can easily be seen by other drivers. Not only that, the method embodiments of claims 18 and 19 impart information regarding the safety of driving proximal to the snowplows having the EL lighting in either a formation or in a snowstorm or both. The Applicant asserts that claims 18 and 19 clearly have utility in altering the physical state of snowplows in a snowstorm and snowplows in formation from a state where they cannot be easily seen to a state where they can be easily seen and impart of message of caution.

The Applicant directs the Examiner to the following webpage:

<http://www.safelites.com/signage.htm> . This webpage illustrates the effectiveness and utility of EL lighting as is claimed and described herein. The Applicant also urges the Examiner to review the DOT Snow Plow Video accessible on this page and the statements made by the Metropolitan Airports Commission, also accessible through the webpage. The Applicant respectfully requests the Examiner to reconsider and withdraw this ground of rejection.

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§112 Rejection of the Claims

Claims 18-19 were rejected under 35 U.S.C. § 112, first paragraph, as lacking adequate description or enablement. The Applicant directs the Examiner's attention to paragraphs 38 and 47 and FIG. 7 of the specification, which describe and illustrate snowplows having EL lighting in formation and effectiveness of EL lighting in conditions of reduced visibility, such as caused by snow. The objection presented here appears to be the same as the objection under 101, which is inappropriate. The Applicant asserts that the claims 18 and 19 are supported by the specification and are therefore enabled.

§103 Rejection of the Claims

Claims 1-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hoffman (U.S. 5,339,550) in view of Pratt (U.S. 6,409,367). Amended claims 1, 12 and 22 as described above, distinguish over Hoffman, which does not teach "the EL portion is a first color in a non-illuminated condition, and a second color in an illuminated condition, and wherein the tinting layer is tinted so that when the EL portion is non-illuminated the tinting causes the safety sign to produce a first color different than the color of the EL portion in the non-illuminated condition, and so that when the EL portion is illuminated the tinting causes the safety sign to produce a second color different than the first color and different than the color of the EL portion in the illuminated condition." Accordingly, claims 2-11 and 13-21 and 23-36 are also patentable over Hoffman for the same reason, as there is no motivation in Hoffman for one of ordinary skill in the art to make an EL sign of such a kind. In fact, Hoffman does not suggest the desirability of having an EL sign of one color in a non-illuminated condition, such as may be the case during the day, and of another color at night, in an illuminated condition.

The Pratt reference does not describe EL lighting at all, as acknowledged by the Examiner. The combination of Hoffman and Pratt fails to describe what is claimed, which includes:

A snowplow, comprising:

- a cab;
- a trailer;

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a scraper; and

EL lighting wherein the EL lighting is attached to the cab further wherein the EL portion is a first color in a non-illuminated condition, and a second color in an illuminated condition, and wherein the tinting layer is tinted so that when the EL portion is non-illuminated the tinting causes the safety sign to produce a first color different than the color of the EL portion in the non-illuminated condition, and so that when the EL portion is illuminated the tinting causes the safety sign to produce a second color different than the first color and different than the color of the EL portion in the illuminated condition.

Thus, the combination of references does not render the claims herein obvious.

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CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6976 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

AARON GOLLE ET AL.

By their Representatives,

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Date 28 March 06

By Janal M. Kalis
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 28 day of March, 2006.

John N. Grotzer - Writheal

Name

John N. Grotzer - Writheal
Signature